

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

HUSAM D. ABED,
Plaintiff,

v.

BATH IRON WORKS
CORPORATION
Defendant.

C.A. No.: 14-

VERIFIED COMPLAINT AND JURY DEMAND

PARTIES

1. The plaintiff, Husam D. Abed (“Abed”), an individual currently residing in Portland, Maine.
2. The defendant Bath Iron Works Corporation (“BIW”) is a corporation organized under the Laws of Massachusetts with its registered office located in Boston, Massachusetts.

JURISDICTION AND VENUE

3. This action arises under Title VII of the Civil Rights Act of 1964, 42 U.S.C §2000e-2 *et seq.*
4. This Court has original jurisdiction and venue over this action pursuant to 42 U.S.C. §2000e-5(f)(3); 28 U.S.C. §§ 1331 and 1343.
5. A charge concerning the discrimination based on religion and national origin was timely filed with the Boston Office of the Equal Employment Opportunity Commission (“EEOC”) on April 18, 2014.
6. The Boston Office of the EEOC issued a right to sue letter concerning those claims.
7. This action was commenced within 90 days of the date of receipt of that letter.

8. In furtherance of its federal jurisdiction, this court has jurisdiction pursuant to 28 U.S.C. § 1332, as there is complete diversity among the parties and the amount in controversy exceeds the sum or value of \$75,000.00.

9. Further, venue is proper pursuant to 28 U.S.C. § 1391(a).

FACTS

10. BIW is a corporation that designs and builds surface combatants for the United States Navy.

11. Abed was employed as a designer at BIW. Abed started working at BIW on November 19, 2007. Abed attended Belgrade School of Civil Engineering and received a degree in Civil Engineering in 1992.

12. Abed is Palestinian and Muslim. On information and belief, Abed is the only Palestinian and Muslim who is or was employed by BIW.

13. Throughout his employment at BIW, Abed faced severe discrimination and harassment based solely his religion, race and national origin.

14. Abed also faced a hostile work environment because of the harassment and discrimination solely his religion, race and national origin.

DIFFERENT INSTANCES OF HARASSMENT, DISCRIMINATION AND HOSTILE WORK ENVIRONMENT BASED ON ABED'S RELIGION, RACE AND NATIONAL ORIGIN.

A. Afghanistan Flag

15. There is an Afghanistan flag that BIW received from the US Marine Corps for the Company's support of United Way and the Toys for Tots program.

16. This flag was hung up (and is still there today) on the wall in the main office walkway in plain view for all employees at the Hardings facility.

17. The Afghani flag has a mosque (the Muslim place of worship) in the center of the flag. The flag has been decimated with hate graffiti. On the flag under the Arabic text and mosque it has been marked with the graffiti "DEVILS". Words such as "Kill them" and "Kill" are also visible throughout the flag. Moreover, there is a drawing of a bomb right over the mosque in the middle of the flag.

18. The hate graffiti was not on the flag when it arrived from Afghanistan.

19. Abed also witnessed multiple BIW employees spit on the flag as they walked passed it. See, Picture of the graffiti-ridden Afghanistan flag attached hereto as Exhibit A.

20. As the flag is on the main office walkway, Abed had to walk past the disgusting graffiti that degrades his religion on a daily basis. Moreover, the sickening graffiti was in plain view of all supervisors and managers at BIW and was ignored as the flag still hangs today at the Hardings Facility at BIW. This is a prime example of the anti-Muslim culture ingrained at BIW.

B. Hate Speech towards the Prophet of Islam

21. In February 2011, Abed was participating in the daily stretch time with Scott Massey ("Massey") and Ross Cantara. Suddenly, and completely unprovoked, John Faulkner ("Faulkner") arose from his cubicle and started spewing hate speech directed at Abed in relation towards the Prophet Mohammed of Islam. Faulkner did this while looking directly at Abed. He used such words referring to Prophet Mohammed as "idiot", "liar" and "deceiver".

22. This religious harassment and discrimination was witnessed by Abed's supervisor, Stacey Hutchinson ("Hutchinson"). In fact, Hutchinson was excitedly staring at Abed waiting for his reaction. It was if the harassment was premeditated by Faulkner and Hutchinson.

23. However, Abed kept silent as he felt scared for his safety and did not want to engage Faulkner nor did Abed want to give Hutchinson the satisfaction of reacting in the way

Hutchinson and Faulkner clearly wanted him to. Of course, Faulkner was not reprimanded by Hutchinson for his actions, and in all likelihood rewarded.

C. Hutchinson Calling Palestinians Terrorists

24. In February 2011, Hutchinson harassed and discriminated against Abed directly, himself. During another stretch time, Hutchinson, unprovoked, stormed out from his cubicle and shouted in the direction of Abed, "Palestinian are terrorists!" Hutchinson knew full well that Abed was Palestinian.

25. Because Hutchinson was Abed's supervisor, Abed felt if he reacted negatively, he may compromise his employment. This is another egregious example of harassment, discrimination and hostile work environment BIW created for Abed because of his religion and national origin.

D. Kuffiya Incident

26. A Kuffiya is an Arab head dress. In January 2012, it was a Saturday workday at the Hardings facility. At around noon, Massey approached Abed, completely unprovoked, and stated in absolute clarity, "if you put a kuffiya on your head, you would become a Palestinian terrorist." Massey followed up by stating "you know how we in America call Palestinians...terrorists."

27. Abed refused to engage Massey and dignify a response, as he felt victimized. When Massey did not get the reaction he hoped for, he stood up smiling and walked away. This nauseating hate speech from Massey was routine. It is widely known throughout BIW that Massey is intolerant towards Muslims, as he made it clear to anyone who would listen that he was prejudiced against any and all Muslims.

E. Spitting at Abed

28. Throughout his years at BIW, Abed would be routinely spit at by other employees who he had never spoken with.

29. Abed would be simply walking in the hallways and random people would look at him in disgust and spit. This happened at one time when Abed was in the manufacturing room. It was clear to Abed that people were doing this to him because of his religion and national origin.

F. Cartoon

30. There is/was a picture of a cartoon posted at the training room in CROF building at BIW. This cartoon clearly depicts a Muslim, bearded man who had his features altered to make him appear evil.

31. The cartoon was an obvious attempt at mocking Muslims and gives further credence to the anti-Muslim culture at BIW. The cartoon was in the training room posted on the filing cabinet where it was in the clear view of everyone and was viewed by Abed while he was working in the CROF facility.

G. February 7, 2014 Incident

32. On February 7, 2014, Bruce Hunter ("Hunter") and Mike Brilliant ("Brilliant") were having a cordial conversation about the Olympic Winter Games at the CROF facility at BIW. The Olympics were being held in Sochi, Russia.

33. Hunter, Brilliant and Abed were discussing the current security threats in Sochi, Russia. As he had knowledge of the region, Abed went on to explain a brief history of the people who live in the region.

34. As Abed was explaining the history of the region he mentioned the word Muslim. The second the word “Muslim” came out of Abed’s mouth, it triggered a reaction from Massey who was sitting in his cubicle listening in on the conversation.

35. When Massey heard the word “Muslim,” he quite literally jumped out of his seat and began to run towards Abed. Massey then got in the face of Abed and screamed “you stop talking Dib (Abed’s nickname) and get back to work!” Massey’s face was beet red and he was violently shaking.

36. Massey did not speak to either Brilliant or Hunter and clearly singled out Abed. Abed rightfully asked Massey why he was being singled out. Massey responded by laughing in Abed’s face. Massey then returned to his seat and yelled “he was speaking about fucking Muslims!” At that moment, Abed felt like his physical safety was in legitimate danger.

37. The disgusting, hate filled harassment and discrimination directed at Abed by Massey was so loud and obnoxious that it was witnessed by all workers working at the CROF facility at that time. One fellow employee, Dennis Tadlock (“Tadlock”) decided to question Massey on why he singled out Abed. Tadlock stated to Massey immediately after the incident, “Scott, you are sick in the mind. You singled out Dib (Abed’s nickname). You treated him like shit again”.

38. Suddenly, Dennis Waters (“Waters”), Abed’s manager, opened his office door and appeared from his office (his office is in close proximity to where the incident occurred) and called in both Tadlock and Massey.

39. It must be stressed that because Waters came out of his office after Tadlock questioned Massey, it is indisputable Waters was in his office when Massey harassment started.

40. Therefore, it is almost certain Waters heard the harassment Massey spewed at Abed. Yet, Waters decided not to intervene at that moment and instead called in Massey and Tadlock to his office only after Tadlock questioned Massey on his harassment of Abed.

41. After he saw Tadlock and Massey getting called into Waters' office, he was sure Waters would want to speak with him next. However, that never occurred. Instead, Abed unilaterally approached Waters and pleaded with him to speak about the incident. Waters agreed and spoke to Abed around two hours after the Massey incident occurred. Abed explained everything that happened and also told Massey about all of the other incidents where he felt discriminated against at BIW. This includes all of the above mentioned incidents.

42. Shockingly, Waters response to Abed was "what do you want me to do?"; "do you want me to discipline him?"; "we do not have anyone to take his place and take care of the team". Abed could not believe the reaction from Waters and left the meeting feeling crushed.

43. The February 7, 2014 incident was the breaking point for Abed. It was when he truly realized the gravity of the harassment and discrimination he endured.

44. On or around two weeks after the incident, Abed, still feeling the incident was not handled properly, decided to arrange a meeting with his manager, Waters, again.

45. At this meeting, Abed was firm in his demands to rectify the situation. He demanded to no longer be treated unequally amongst his peers and he wanted an apology from Massey. Abed also reiterated he felt unsafe because he was continually harassed and discriminated against because of his religion and national origin.

46. Amazingly, Waters stated this was the first time he had heard of such harassment and discrimination, even though Abed met with him the day of the February 7, 2014 incident and

Waters was told of *all previous* times Abed was harassed and discriminated against. Waters went on to say that “this could put my job in danger”.

47. After the meeting, nothing more was done. Finally, Abed requested one more meeting in April with Waters and made demands of action including an apology but, again, no corrective action was taken. In sum, Abed unilaterally arranged three meeting between February and May of 2014 with his manager, Mr. Waters, and after every meeting no corrective action was taken.

48. In April, Abed decided to follow up and arranged a time to meet with his supervisor, Bernie Pelletier (“Pelletier”). *See* Emails to Pelletier attached hereto as Exhibit B.

49. Abed learned Pelletier knew about the February 7th incident. Abed informed Pelletier about the February incident in detail and other times he felt discriminated against because of his religion and national origin.

50. Pelletier stated he thought he believed Abed was singled out by Massey and that Massey had apologized to Abed.

51. However, there was never an apology from Massey nor any other corrective action taken after the Pelletier meeting.

52. For clarity, Pelletier is the supervisor located at the Hardings facility. He comes to the CROF building as needed.

53. As such, because there is no supervisor at CROF, Massey acts as a supervisor in addition to his role as work leader in the CROF facility. All BIW employees at CROF act as if Massey is a supervisor, and he certainly acts as the supervisor as CROF. The fact that Waters told Abed he was so worried about replacing Massey also indicates that Massey has a supervisorial position at CROF.

Computer Issues

54. There have also been numerous technical issues involving Abed's personal login information for Abed's computer that only affected him.

55. During Abed's employment, his computer was always having technical problems as it would not have the required software Abed needed to complete tasks. This included not having access to EDR drawings and DDG51 resources. Abed let his managers know about these issues both verbally and via email.

56. In fact, in Abed's email to Pelletier, Abed states "THE LONG HISTORY OF SINGLING ME OUT IS NO LONGER ACCEPTABLE." *See* Emails from Abed to his Supervisors attached hereto as Exhibit C.

57. Accordingly, multiple IT tickets would be created and the IT Company, CSC, would come remedy the issue. CSC indicated that there were always technical issues because Abed's personal login information was compromised.

58. Even when Abed switched computers he would encounter the same technical issues. This was because it was his personal account that was compromised. This problem obviously affected Abed's work.

59. Abed would often have to ask other employees to print for him and do other basic tasks so that Abed could properly perform his job. Again, it must be reiterated that Abed was the only employee to have his BIW personal account compromised.

60. In fact, the CSC would often comment that, because of the frequency of technical issues, it seemed that Abed's personal account was being singled out and probably purposely being compromised. It is Abed's firm belief that his personal account was compromised because of Abed's religion and national origin. There is simply no other explanation.

H. Five Year Certificate

61. On November 19, 2013, the fifth year of Abed's employment, every single one of Abed's fellow employees he started at BIW with received a certificate recognizing their work over five years. However, Abed did not receive said certificate. Again, this is evidence of Abed being singled out and humiliated that created a hostile work environment for him.

62. Accordingly, Abed asked Pelletier, his supervisor, why he did not receive the five-year certificate and Pelletier responded he did not know why Abed would not receive the certificate since he was a very good employee. *See* Email from Abed to Pelletier attached hereto as Exhibit D.

63. To try and appease Abed, Pelletier provided Abed with a sticker, an insulting gesture to try and silent Abed from bringing up the issue again. Many of Abed's peers, such as Richard Bell and Ernie Pike, remarked how it appeared that Abed was again being singled out for not receiving the certificate that Abed was supposed to receive.

64. It must be emphasized again that every other employee that had worked for BIW for five years received this certificate

65. Accordingly, it is quite clear that the reason Abed did not receive a certificate, was not because of bad work habits. The only other explanation is that Abed did not receive the certificate because he was discriminated against because of his religion and national origin.

66. Because of the above referenced harassment, discrimination and hostile work environment, Abed was forced to leave via the Family Medical Leave Act.

67. Abed also suffered emotional distress because of the harassment, hostile work environment and discrimination. Because of this emotional distress, Abed had to resign from his position at BIW.

CAUSES OF ACTION

COUNT I

THE CIVIL RIGHTS ACT OF 1964 (42 U.S.C. 2000e-2) (UNLAWFUL DISCRIMINATION)

68. Abed incorporates and restates the allegations contained in the above paragraphs as if fully set forth herein.

69. 42 U.S.C. § 2000e-2 provides that "[i]t shall be an unlawful employment practice for an employer to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, or national origin.

70. Abed faced severe harassment and discrimination because of his religion, race and national origin throughout his career at BIW.

71. As a direct and proximate cause of BIW's disparate treatment and unlawful discrimination, Abed suffered significant, irreparable harm and damages.

72. BIW is liable for damages, attorneys' fees, costs and interest from the date of harm.

COUNT II

THE CIVIL RIGHTS ACT OF 1964 (42 U.S.C. 2000e *et seq*) (HOSTILE WORK ENVIRONMENT)

73. Abed incorporates and restates the allegations contained in the above paragraphs as if fully set forth herein.

74. Abed faced severe discrimination and harassment because of his religion, race and national origin throughout his career at BIW that created a hostile work environment.

75. As a direct and proximate cause of BIW's hostile work environment, Abed suffered significant, irreparable harm and damages.

76. BIW is liable for damages, attorneys' fees, costs and interest from the date of harm.

COUNT III

BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING

77. Abed incorporates and restates the allegations contained in the above paragraphs as if fully set forth herein.

78. BIW violated the implied covenant of good faith and fair dealing by engaging in misconduct involving religious, national origin and racially disparate treatment.

79. As a direct and proximate cause of BIW's disparate treatment and unlawful discrimination, Abed suffered significant, irreparable harm and damages.

80. BIW is liable for damages, attorneys' fees, costs and interest from the date of harm.

COUNT IV

BREACH OF CONTRACT

81. Abed incorporates and restates the allegations contained in the above paragraphs as if fully set forth herein.

82. Abed and BIW entered into a legally enforceable contract.

83. BIW breached said contract.

84. As a direct and proximate cause of this breach, Abed suffered significant, irreparable harm and damages

85. BIW is liable for damages, attorneys' fees, costs and interest from the date of harm.

COUNT V

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

86. Abed incorporates and restates the allegations contained in the above paragraphs as if fully set forth herein.

87. Abed faced severe harassment, discrimination and a hostile work environment because of his religion, race and national origin throughout his career at BIW.

88. As a direct and proximate cause of BIW's disparate treatment and unlawful discrimination, Abed suffered significant emotional distress.

89. BIW is liable for damages, attorneys' fees, costs and interest from the date of harm. WHEREFORE, the Plaintiff, Husam D. Abed, hereby demands the following:

1. As to Counts I, II, III, IV and V that this Court determine the amount of Abed's damages and enter judgment for Abed in said amount, together with interest, attorney's fees, and costs;
2. That this Court award Abed reasonable attorneys' fees, costs and interest from the date of the harm; and
3. For such other and further relief as this Court deems just and proper.

**PLAINTIFF DEMANDS A TRIAL BY JURY ON ALL
COUNTS SO TRIABLE**

HUSAM D. ABED
By his attorney,

/Shaun M. Khan
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Dated: November 6, 2014

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[VERIFICATION PAGE TO FOLLOW]

VERIFICATION

I, Husam D. Abed verify that I have read the allegations contained in this Verified Complaint, that I have personal knowledge of the facts, and that the facts stated in the Verified Complaint are true, except those facts alleged upon information and belief and, as to those facts, I believe they are true.

Signed under the penalties of perjury this 23 day of October 2014.

Husam D. Abed.
HUSAM D. ABED

